

ALEX G. TSE (CABN 152348)  
United States Attorney

BARBARA J. VALLIERE (DCBN 439353)  
Chief, Criminal Division

ELISE LAPUNIZNA (NYBN 2540730)  
S. WAQAR HASIB (CABN 234818)  
Assistant United States Attorneys

450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102-3495  
elise.lapunzina@usdoj.gov; 415-436-6878  
waqar.hasib@usdoj.gov; 415-436-7261

Attorneys for the United States of America

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	CASE NO. 3:15-CR-582 WHO
	)	
Plaintiff,	)	<b>UNITED STATES' SUPPLEMENTAL</b>
	)	<b>OPPOSITION TO DEFENDANT'S MOTION <i>IN</i></b>
v.	)	<b><i>LIMINE</i> TO EXCLUDE EVIDENCE RELATING</b>
	)	<b>TO CONTACT WITH ARMIN HARCEVIC</b>
ADAM SHAFI,	)	
	)	
Defendant.	)	

On July 23, 2018, the defendant filed motions *in limine* to prevent the government from offering evidence relating to the defendant's contact with an individual named Armin Harcevic, in particular a meeting that the defendant had with Harcevic while Harcevic was in federal custody awaiting trial on material support charges. Docket No. 224 at pg. 13. This Court issued a tentative ruling indicating that it would deny that motion. Docket No. 245. At a hearing on jury selection matters last Friday, the defendant renewed his motion to exclude the Harcevic-related matters. The Court instructed the government to outline the potential evidence relating to Harcevic and its relevance to the charges against the defendant.

The evidence relating to Harcevic consists of the following:

- Between December 1 and December 21, 2014, there were 10 calls between the defendant's telephone and a telephone number associated with an individual named Haris Harcevic. Haris Harcevic is believed to be the brother of Armin Harcevic.
- On February 26, 2015, the defendant texted A.N. advising that some individuals had offered to post their homes as bail for Armin Harcevic.
- On March 5, 2015, the defendant texted A.N. and advised that the "district attorney" had refused Harcevic's bail conditions.
- On March 12, 2015, the defendant searched for Armin Harcevic on Google.
- On March 15, 2015, the defendant visited Armin Harcevic in jail. It appears from the content of the meeting that the defendant and Harcevic previously knew each other. The two also discussed Harcevic's living conditions in jail.
- On June 20, 2015, the defendant exchanged the following texts with S.K.:
  - A.S. - "Dude, Armin is still in jail. What the hell are we doing"
  - S.K. - "What can we do"
  - A.S. - "Idk. But this isnt right. How can I enjoy anything while hes locked up in a cage"
  - S.K. - "I don't enjoy", "Anything"
  - A.S. - "Me 2", "dude he's in a freaking cage", "We Have to do something", "Honestly sometimes feel like if there's really nothing I can do I just rather be with him in the cage", "at least he won't be alone"
  - S.K. - "U think they would put u in the same cage", "Loll.."
  - A.S. - "EVEN if its not the same cage, at least Ill be going through what hes going through instead of just eating my fancy meals and sleeping in my fancy house while he's in a cage", "If theres nothing i can do, then thats what I should do iA", "that would make me feel better dying like that instead of like this"
  - S.K. - "Burma"
  - A.S. - "That works too"
- On July 3, 2015, during the defendant's arrest, the defendant commented that Harcevic was a friend of his, and asked if he was out of jail yet.

The government submits that the above-described evidence demonstrates consciousness of guilt on the part of the defendant, insofar as his meeting with Harcevic helps prepare him for the possibility that he may have to be in custody as a result of his actions. Moreover, the June 20 texts are relevant to prove intent, as it appears that the defendant was at least partly motivated to "do something" because "Armin is still in jail... in a freaking cage." Particularly relevant is the fact that immediately after the defendant suggests to S.K. that he would feel better going to jail, "dying like that instead of like this," S.K. suggests "Burma" as an another possibility, to which the defendant replied, "that works too." As the Court is aware, S.K. on several occasions suggested Burma as an alternative destination to the defendant, instead of going to Syria. In short, the defendant himself equates Harcevic's custody with a

///

1 reason for traveling.  
2

3 Respectfully submitted,

4 ALEX G. TSE  
United States Attorney

5 DATED: August 27, 2018

6 /s/  
S. WAQAR HASIB  
ELISE LAPUNZINA  
7 Assistant United States Attorneys  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28